

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
THE CHEMITHON CORPORATION,)
Appellant,)
v.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 801

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of a \$100 civil penalty for alleged visual air contaminant violation of respondent's Regulation I, came before the Pollution Control Hearings Board, Chris Smith, Chairman, at a formal hearing in Seattle on July 8, 1975. David Akana, hearing examiner, presided.

Appellant appeared through its attorney, J. Richard Aramburu; respondent appeared through its attorney, Keith D. McGoffin. Sherri Darkow, Olympia court reporter, recorded the proceeding.

Witnesses were sworn and testified. Exhibits were admitted.

Having heard the testimony, having examined the exhibits, and

1 having considered the contentions of the parties, and exceptions from
2 respondent, said exceptions being granted in part and denied in part,
3 the Pollution Control Hearings Board makes the following

4 FINDINGS OF FACT

5 I.

6 Respondent, pursuant to Section 5, chapter 69, Laws of 1974, 3d
7 Ex. Sess. (RCW 43.21B.260), has filed with this Board a certified copy of
8 its Regulation I containing respondent's regulations and amendments thereto

9 II.

10 Section 9.03 of respondent's Regulation I provides that it shall be
11 unlawful to cause or allow the emission of an air contaminant for more than
12 three minutes in any one hour, which emission obscures an observer's view
13 to a degree equal to or greater than 40 percent opacity. Section 9.04
14 provides that the presence of uncombined water shall not be deemed a
15 violation of Section 9.03. Section 3.29 provides for a civil penalty of
16 up to \$250 per day for each violation of Regulation I.

17 III.

18 On January 14, 1975, respondent's inspector observed emissions coming
19 from appellant's spray drier stack located at 5430 West Marginal Way
20 Southwest in Seattle. The emission was observed for a period of ten
21 consecutive minutes. During this period, the inspector measured an opacity
22 ranging from 55 to 65 percent. The inspector thereafter issued a Notice
23 of Violation, No. 10348. From this Notice of Violation, a Notice of
24 Civil Penalty No. 1886 was issued, assessing appellant a civil penalty of
25 \$100. This civil penalty is the subject matter of this appeal.

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW AND ORDER

1 IV.

2 During periods of "high" relative humidity, steam remains visible
3 for a longer period of time than it does during periods of lower relative
4 humidity. Relative humidity equal to or greater than 80 percent is
5 considered "high." At the time that this emission was observed, the
6 relative humidity was between 82 percent and 93 percent.

7 V.

8 Appellant had not yet begun its manufacturing process when the
9 subject emission was observed. The system had been steam-cleaned during
10 the previous week. The emission was observed when appellant's dryer was
11 warming up in preparation for manufacturing and was the result of the
12 evaporation of residual uncombined water in the system after completion
13 of cleaning. Respondent's inspector erroneously concluded that the
14 emission observed was not uncombined water.

15 VI.

16 Any Conclusion of Law which should be deemed a Finding of Fact is
17 hereby adopted as such.

18 From these Findings the Pollution Control Hearings Board comes to
19 these

20 CONCLUSIONS OF LAW

21 I.

22 On January 14, 1975 appellant did not violate Section 9.03 of
23 respondent's Regulation I.

24 II.

25 Any Finding of Fact which should be deemed a Conclusion of Law is
26 hereby adopted as such.

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 From these Conclusions the Pollution Control Hearings Board enters
2 this

3 ORDER

4 The \$100 civil penalty is vacated.

5 DATED this 9th day of September, 1975.

6 POLLUTION CONTROL HEARINGS BOARD

7 Chris Smith
8 CHRIS SMITH, Chairman

9 W. A. Gissberg
10 W. A. GISSBERG, Member

11 Walt Woodward
12 WALT WOODWARD, Member

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27 FINAL FINDINGS OF FACT,
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